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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,349	10/28/2003	Wolfgang Lubcke	9090-0158	2564
23364 7590 03/11/2009 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER				
ZHU, JOHN X				
ART UNIT		PAPER NUMBER		
2831				
MAIL DATE		DELIVERY MODE		
03/11/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* WOLFGANG LUBCKE, PETER GERST,  
and JEAN-GYL CAPT

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Application No. 10/694,349  
Technology Center 2800

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Mailed: March 11, 2009

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Before CAROLYN L. JOHNSON, *Supervisory Paralegal Specialist*.  
JOHNSON, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A Reply Brief was filed in this application on August 27, 2007. The Examiner responded to Appellants' Reply Brief in a communication dated November 28, 2007. A review of the application reveals that the Examiner did not appropriately respond to Appellants' Reply Brief in accordance with 37 C.F.R. § 41.43(a)(1) and MPEP § 1208, part II.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

(1) appropriately consider the Reply Brief filed August 27, 2007 as indicated above; and

(2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

CLJ

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